

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ROBERT SMITH,)
)
Plaintiff,) CASE NO. C04-2226-JLR-MJB
)
v.)
)
C/O BETTIS, *et al.*,) ORDER DENYING PLAINTIFF'S
) REQUEST FOR EXTENSION OF TIME
Defendants.)
)

Plaintiff is a Washington state prisoner who is proceeding *pro se* and *in forma pauperis* in this action pursuant to 42 U.S.C. § 1983. On September 26, 2005, the court issued an Order denying defendants's motion to dismiss the action due to plaintiff's refusal to participate in a deposition. (Doc. #35). Although the court denied defendants's motion, the court advised plaintiff "that he is now compelled to participate in the next deposition arranged by defendants and to comply with all other discovery requests properly made by defendants." (*Id.*) The court warned plaintiff that "failure to comply with this order will result in dismissal of this action." (*Id.*) To provide adequate time for another deposition to be scheduled, the court established new deadlines for discovery and dispositive motions.

On October 17, 2005, plaintiff filed a “motion or request for an extension of time herein to response [sic] to defense counsel second notice deposition and other.” (Doc. #37). The basis of plaintiff’s motion is unclear. Defendants have not filed a response, perhaps because plaintiff failed to note the motion on the court’s calendar, as required by Local Rule CR 7(b). Having considered the

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1 motion and the balance of the record, the court does hereby find and ORDER:

2 (1) Plaintiff's motion for extension of time (Doc. #37) is DENIED. Plaintiff's deposition
3 has already been delayed significantly due to his lack of cooperation and the court can discern no
4 reason in plaintiff's motion for further delay. Plaintiff is warned once again that any failure to
5 participate in the next deposition arranged by defendants or to comply with other discovery requests
6 will result in dismissal of this action.

7 (2) The Clerk shall send a copy of this Order to plaintiff, to counsel for defendants, and to
8 the Honorable James L. Robart.

9 DATED this 1st day of November, 2005.

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13 MONICA J. BENTON
United States Magistrate Judge

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